

REMARKS

By this Amendment the title of the invention has been changed so as to be more descriptive of the invention, the abstract has been corrected, and claim 17 has been amended to better define the invention. Entry is requested.

In the outstanding Office Action the examiner has (1) rejected claims 17, 18, 21-26, 36-40 and 42 under 35 U.S.C. 102(b) as being anticipated by Rohs et al., (2) rejected claims 19 and 20 under 35 U.S.C. 103(a) as being unpatentable over Rohs et al. in view of "legal precedent," (3) rejected claims 27 and 30 under 35 U.S.C. 103(a) as being unpatentable over Rohs et al. in view of Cole et al., (4) rejected claim 31 under 35 U.S.C. 103(a) as being unpatentable over Rohs et al. in view of Miller, (5) rejected claims 32, 33 and 35 under 35 U.S.C. 103(a) as being unpatentable over Rohs et al. in view of Moore et al., (6) rejected claim 41 under 35 U.S.C. 103(a) as being unpatentable over Rohs et al. in view of Yue, and (7) stated that claims 28, 29 and 34 define allowable subject matter.

The inventor thanks the examiner for his indication of allowable subject matter; however, he asserts that the examiner's prior art rejection should be withdrawn.

Rohs et al. disclose a variable capacity gear pump with two meshing gears having external toothings. One of the two gears is shiftable in the direction of its axis. However, there is no free gap between a first front

face of the shiftable gear and a first interior side wall of a housing because of the filling part (sliding part) between the teeth in order to avoid dead space. Similar gear pumps are disclosed in U.S. Patent Nos. 2,052,419, 6,244,839 and 3,110,265, and in DE 35 28 651 A1.

Further gear pumps using filling parts are described in the specification of the present application on page 2, lines 2-21.

But in the present invention no filling part is needed!

Due to the absence of a gap defining a free space, it is not true that Rohs et al. disclose a gap-width, defined as a distance measured in axial direction between an essentially plane first interior side wall of the working chambers of the pump housing and a first front face of the shiftable gear.

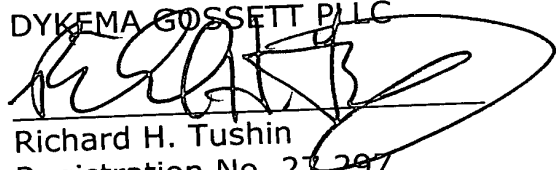
Thus, claim 17 is asserted to be patentable over Rohs et al., and nothing in Cole et al., Miller, Moore et al. or Yue would overcome this deficiency.

Favorable reevaluation is requested.

Respectfully submitted,

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